



WEST VIRGINIA INSURANCE BULLETIN No. 22-09

Insurance Bulletins are issued when the Commissioner renders formal opinions, guidance or expectations on matters or issues, explains how new statutes or rules will be implemented or applied, or advises of interpretation or application of existing statutes or rules.

► **Cost Sharing in Prescription Insulin Drugs** ◀

This Insurance Bulletin is intended to set forth guidance regarding cost sharing for prescription insulin drugs as stated in House Bill 4543 (2020) and codified at W.Va. Code §33-59-1. West Virginia Code §33-59-1(e) provides that “[c]ost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person’s prescription needs.” Cost-sharing payment is defined as “the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person’s health plan.” Also, W.Va. Code §33-59-1(c) states that “[e]ach health plan shall cover at least one type of insulin in all the following categories: (1) Rapid-acting; (2) Short-acting; (3) Intermediate-acting; (4) Long-acting; (5) Pre-mixed insulin products; (6) Pre-mixed insulin/GLP-1 RA products; and (7) Concentrated human regular insulin.”

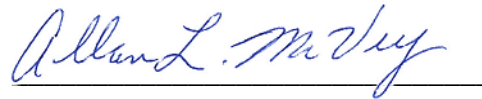
It has recently come to the attention of the Offices of the Insurance Commissioner (“OIC”) that there has not been a uniform interpretation of W.Va. Code §33-59-1(e) by insurers since its enactment in 2020. Some insurers have opined that \$100 may be charged to a covered person as a coinsurance amount for each type of insulin drug category dispensed within a 30-day period. Under this interpretation, for example, a covered person who was prescribed both rapid-acting insulin and short-acting insulin during a 30-day period could be required to pay \$200 as coinsurance within a 30-day period.

Other insurers have interpreted W.Va. Code §33-59-1(e) to prohibit a covered person from being charged more than \$100, maximum, per 30-day period for an insulin drug of the same type irrespective of the number of insulin drug categories that are used to medically satisfy the covered person’s needs. In this regard, W.Va. Code §33-59-1(e) is acting as a cap that would prohibit a covered person from being charged more than \$100 per 30 days for his or her insulin needs.

The OIC agrees that the latter interpretation is the one intended by the Legislature and better comports with the legislative findings set forth in W.Va. Code §33-59-1(a). Again, W. Va. Code §33-59-1(e) requires that a covered person’s cost sharing “shall not exceed \$100 for a 30-day supply of a covered prescription insulin, *regardless of the quantity or type of prescription insulin used to fill the covered person’s prescription needs.*” (Emphasis added.) The language “regardless of the quantity” infers that the \$100 per 30-day supply requirement is applicable irrespective of the number of insulin drug categories prescribed. As such, it is the position of the OIC that a covered person may only be charged \$100 or less for all combined insulin drug categories within the same type of insulin once per 30-day period.

Please e-mail any questions concerning this Insurance Bulletin to OICBulletins@wv.gov.

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